



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>

DA 22-90
Released: January 27, 2022

**DOMESTIC 214 APPLICATION GRANTED FOR THE TRANSFER OF CERTAIN
AUTHORIZATIONS OF CHEROKEE TELEPHONE COMPANY
TO ATLINK SERVICES, LLC**

WC Docket No. 21-423

By this Public Notice, the Wireline Competition Bureau (Bureau) grants an application filed by Cherokee Telephone Company (Cherokee) and AtLink Services, LLC (AtLink) (together, Applicants),¹ pursuant to section 214 of the Communications Act of 1934, as amended (Act), and sections 63.03-04 of the Commission's rules,² requesting consent to transfer Cherokee's Connect America Fund (CAF) Phase II obligations and support for certain census blocks in Oklahoma (Assigned Census Blocks)³ to AtLink.

On November 16, 2021, the Bureau released a public notice seeking comment on the Application.⁴ The Bureau did not receive comments or petitions in opposition to the Application.

Applicants and Description of Transaction

Cherokee, an Oklahoma corporation and incumbent local exchange carrier (LEC), provides voice and broadband service and is an eligible telecommunications carrier (ETC) in Oklahoma.⁵ During the

¹ See Domestic Section 214 Application of Cherokee Telephone Company, Assignor, and AtLink Services, LLC, Assignee, for Consent for the Assignment of Certain Assets of Cherokee Telephone Company to AtLink Services, LLC; Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 21-423 (filed Oct. 27, 2021), <https://ecfsapi.fcc.gov/file/102742244794/AtLink%20Services%20Transfer%20Application.pdf> (Application). On November 15, 2021, Applicants filed a supplement to the Application. Letter from Stephen E. Coran, Counsel for Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-423 (Nov. 15, 2021) (Supplement). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

² See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

³ Applicants state that there are 249 eligible census blocks comprised of 1,166 locations in Oklahoma that make up the Assigned Census Blocks. Application at Exhibit 1 (Census Blocks Assigned).

⁴ *Domestic Section 214 Application Filed for the Transfer of Certain Authorizations of Cherokee Telephone Company To AtLink Services, LLC*, WC Docket No. 21-423, Public Notice, DA 21-1437 (WCB 2021).

⁵ Application at 2-3 (citing Oklahoma Corporation Commission, Cause No. 201800108, Order No. 690983 (Feb. 6, 2019) (*Cherokee ETC Order*) (designating Cherokee as an ETC)). The Assigned Census Blocks are located outside of Cherokee's incumbent LEC service territory and are in the AT&T Oklahoma exchanges of Holdenville, Wetumka, Allen, and Calvin and in the Windstream Oklahoma exchange of Gerty. *Cherokee ETC Order* at 1; see also Oklahoma Corporation Commission, Cause No. 201800128, Order No. 689892 (Jan. 17, 2019) (granting Cherokee a Certificate of Convenience and Necessity in the AT&T Oklahoma exchanges of Holdenville, Wetumka, Allen, and Calvin and in the Windstream Oklahoma exchange of Gerty). On January 5, 2022, in anticipation of the proposed transaction, Cherokee submitted an application to the Oklahoma Corporation Commission to relinquish the ETC designation granted in Order No. 690983. Application of Cherokee Telephone Company to Relinquish its

(continued....)

CAF Phase II Auction (Auction 903), Cherokee won the rights to service the Assigned Census Blocks.⁶ Applicants state that “to date, Cherokee has not expended any CAF support with respect to the Assigned Census Blocks.”⁷

AtLink, an Oklahoma limited liability company, is an Internet service provider and ETC in Oklahoma.⁸ During the CAF Phase II Auction, AtLink won the rights to service 1,938 census blocks in Oklahoma.⁹ Applicants state that “AtLink has expended CAF support funds in connection with deployment in its CAF-supported area, and expects to meet the 40 percent buildout milestone well ahead of the three year milestone deadline.”¹⁰ The following U.S. citizen and Oklahoma corporations own AtLink: Samuel T. Curtis (12.53%); the Hinton C A T V Company, Inc. (Hinton C A T V) (54.39%); and Communications Equipment Corporation (33.08%).¹¹

Pursuant to the terms of the proposed transaction, AtLink will assume Cherokee’s CAF obligations and acquire the corresponding CAF support for the Assigned Census Blocks.¹²

Designation as an Eligible Telecommunications Carrier that Was Granted by Order Number 690983, Cause No. PUD 202200004 (filed Jan. 5, 2022 Okla. Corp. Comm’n).

⁶ Application at 2-3 (citing *Connect America Fund Phase II Auction Support for 566 Winning Bids Ready to be Authorized*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 8663, Attach. A (Ready to Authorize Long-Form Applicants and Bids) (WCB/OEA 2019). See *Connect America Fund Phase II Auction Support Authorized for 77 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 4869, 4875 and Attach. A (Authorized Long Form Applicants and Winning Bids) (WCB/OEA 2020) (*CAF Authorization Public Notice*) (stating that ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act, or to engage in the sale of assets under section 214 must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission’s rules governing the procedures for domestic transfer of control/asset applications).

⁷ Application at 3. Applicants state that Cherokee’s assigned CAF II support amount over 10 years is \$594,975.50.

⁸ *Id.* at 3 (citing Oklahoma Corporation Commission, Cause No. 201800107, Order No. 690248 (Jan. 24, 2019) (designating AtLink as an ETC)). On December 21, 2021, in anticipation of the proposed transaction, AtLink submitted an application to the Oklahoma Corporation Commission for ETC designation in the additional census blocks where it has agreed to assume the CAF Phase II obligations from Cherokee and be eligible to receive Cherokee’s CAF support. Application of @Link Services, LLC as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996, Cause No. PUD 202100170 (filed Dec. 21, 2021 Okla. Corp. Comm’n).

⁹ Application at 3. See *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 5966, Attach. A (Authorized Long Form Applicants and Winning Bids) (WCB/OEA 2019). AtLink’s assigned CAF II support amount over 10 years is \$4,762,674.20 for 12,501 locations. Application at 3.

¹⁰ Application at 3.

¹¹ *Id.* at 9-10. Applicants list four U.S. trusts, and their beneficiaries, each a U.S. citizen, which hold interests in Hinton C A T V, as well as four shareholders of Communications Equipment Corporation, each also a U.S. citizen. *Id.* at 10. Applicants state that Hinton C A T V holds a 25% interest in Terral Telephone Company, a rural incumbent local exchange carrier serving a single exchange in Terral, Oklahoma which is not adjacent to the service area of Cherokee. Supplement at 2 (Certification of Samuel T. Curtis).

¹² Application at 4. Applicants state that AtLink will retain its current CAF obligations in addition to assuming Cherokee’s CAF obligations in the Assigned Census Blocks and that AtLink is not acquiring any of Cherokee’s telecommunications assets, services, or customers outside the CAF-supported areas. *Id.* at 2 and 12. Applicants further state that, as a condition to each receiving CAF support, both Cherokee and AtLink have been designated as ETCs and that, “[i]n connection with this proposed transaction, the Applicants are filing for OCC [Oklahoma Corporation Commission] approval for Cherokee to relinquish its Oklahoma ETC designation for the Assigned Census Blocks and for AtLink to expand its ETC designation to cover the Assigned Census Blocks.” *Id.* at 4.

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.¹³ Following the consummation of the proposed transaction, Applicants state that “no carrier change charges will result from the transaction, and no customer service or billing contact information will change as a result of the transaction.”¹⁴ Applicants maintain that “AtLink has both the necessary industry experience and requisite financial means to take on the responsibility of deploying CAF-supported voice and broadband service in the Assigned Census Blocks it proposes to assume from Cherokee.”¹⁵ Applicants assert that “since becoming authorized to receive CAF support, Cherokee realized that the Assigned Census Blocks might be served in a more expeditious and cost-effective manner by AtLink given its proximity to Cherokee’s CAF-supported areas, its existing operations, resources and infrastructure, and its ahead-of-schedule deployment of its own CAF obligations.”¹⁶ They further state that “because Cherokee’s CAF areas are adjacent to or nearby AtLink’s existing operations and AtLink’s CAF-supported areas, AtLink can achieve economies of scale and leverage its labor force, infrastructure and operational capabilities to rapidly and cost-effectively build out the Cherokee CAF areas as it expands its broadband operations.”¹⁷ According to the Applicants, since “AtLink is not taking on any debt repayment obligations or otherwise increasing substantially its costs to deploy service . . . the transaction will not compromise AtLink’s ability to meet the buildout milestones or performance obligations for either its CAF deployment or the deployment in Cherokee’s CAF supported areas.”¹⁸

Discussion

We find, upon consideration of the record, that grant of the Application will serve the public interest, convenience, and necessity.¹⁹ To make this determination under Commission precedent, we consider whether the proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.²⁰ We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any

¹³ *Id.* at 5-7.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 5-6.

¹⁶ *Id.* at 6.

¹⁷ *Id.*

¹⁸ *Id.* at 7; *see id.* at Attach. (Certification of Samuel T. Curtis, President of AtLink, at paras. 3-5).

¹⁹ 47 U.S.C. § 214(a); 47 C.F.R. § 63.03; *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Order, DA 21-663, para. 30 (WCB 2021).

²⁰ *See, e.g., Application of Verizon Communications Inc. and América Móvil S.A.B. de C.V. for Consent to Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112; IBFS File No. ITC-T/C-20200930-00173, Memorandum Opinion and Order, FCC 21-121, at para. 21 (rel. Nov. 22, 2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended*, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation, (and subsidiaries, debtors-in-possession), Assignors and Transferors et al.*, MB Docket No. 05-192, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8219-21, paras. 27-28 (2006) (*Adelphia-TWC Order*)).

potential public interest benefits.²¹ The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.²²

We find that there are no potential public interest harms identified in the record. First, the proposed transaction likely will not adversely affect competition, and no commenter has raised other potential harms. Applicants state that, as proposed, “there will be no reduction in competitors in Cherokee’s CAF-supported areas [and] there will be no negative impact on competition in the communications market anywhere in the United States.”²³ Further, Applicants state that the proposed transaction will be transparent to the customers of the Applicants, who will continue to be served pursuant to each Applicant’s existing operations and existing terms and conditions, and therefore, we expect no harm to existing customers to result from the transaction.²⁴

Second, AtLink certifies that it will meet all public interest and performance obligations associated with the receipt of CAF funding in the Assigned Census Blocks,²⁵ and we expect that the proposed transaction will not negatively impact these obligations. Indeed, Applicants have confirmed that “the transaction will not result in any adverse alteration to the buildout plans Cherokee submitted to the Commission in order to be authorized to receive CAF funding,”²⁶ and that the proposed transaction will “not result in any harms to either company’s existing customers and will accelerate AtLink’s ongoing efforts to expand broadband service to unserved areas.”²⁷ There is nothing in the record to indicate that AtLink is not qualified to efficiently manage the obligations associated with the CAF funding. AtLink is a rural broadband provider already receiving CAF support in Oklahoma as an ETC and states that it has deployed fiber in its existing assigned census blocks.²⁸ Applicants have confirmed that following consummation of the proposed transaction, AtLink will continue to have the necessary managerial and operational expertise to meet the additional CAF commitments it acquires from Cherokee.²⁹ Applicants further state that the proposed transaction will not compromise AtLink’s support obligations through the assumption of debt.³⁰ In addition, AtLink will be subject to ongoing oversight and must comply with annual reporting and certification requirements.

We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.³¹ Applicants must provide evidence of a claimed benefit to allow the

²¹ See *Verizon-TracFone Order* at para. 21 (citing *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9140, para. 18 (2015) (*AT&T-DIRECTV Order*) (further internal citations omitted).

²² See *Verizon-TracFone Order* at para. 21 (citing *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 18; *Adelphia-TWC Order*, 21 FCC Rcd at 8217, para. 23; *Application of EchoStar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and EchoStar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002) (*EchoStar-DIRECTV HDO*) (further internal citations omitted).

²³ Application at 7.

²⁴ *Id.* at 5.

²⁵ *Id.* at Attach. (Certification of Samuel T. Curtis at para. 5).

²⁶ *Id.* at 6.

²⁷ *Id.* at 7.

²⁸ Application at 3, 5-6.

²⁹ See *id.* at 6; see also *id.* at Attach. (Certification of Samuel T. Curtis).

³⁰ Application at 7. AtLink acknowledges that it will need to submit and have approved by USAC an irrevocable letter of credit and bankruptcy opinion letter for the Assigned Census Blocks. *Id.* at 4.

³¹ See *AT&T-DIRECTV Order*, 30 FCC Rcd at 9237, para. 273-74.

Commission to verify its likelihood and magnitude.³² Where potential harms appear unlikely, as is the case with the Application before us here, the Commission accepts a lesser degree of magnitude and likelihood than when harms are present.³³

Applicants “anticipate that with the financial and human resources and operational efficiencies AtLink will provide, consumers will be able to receive CAF services in the Assigned Census Blocks more quickly.”³⁴ The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor³⁵ and accelerating private sector deployment of advanced services is one of the aims of the Act.³⁶ AtLink is already a recipient of universal service funding in Oklahoma,³⁷ has experience deploying broadband networks,³⁸ and intends to integrate deployment of the CAF-supported network activities and operations into its own ongoing operations and its CAF deployment.³⁹ Based on the record of this proceeding, we find it likely that the proposed transaction would result in some public interest benefits, including increased efficiencies for AtLink to expand service offerings more quickly and better compete. Absent any potential harms, and considering that the proposed transaction is likely to yield some benefits, we find, on balance, that the proposed transaction serves the public interest.

Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04 of the Commission’s rules, 47 CFR §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants the Application discussed in this Public Notice under which the CAF Phase II obligations and support for Cherokee’s Assigned Census Blocks in Oklahoma will be transferred to AtLink, subject to AtLink’s compliance with all applicable obligations.⁴⁰

Pursuant to section 1.103 of the Commission’s rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice.⁴¹ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission’s rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Christi Shewman, Wireline Competition Bureau, Competition Policy Division, (202) 418-0646.

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³² See *id.* at 9237-38, paras. 275-76.

³³ See *id.*

³⁴ Application at 7.

³⁵ See, e.g., *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

³⁶ See *Verizon-TracFone Order* at para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Preamble, Pub. L. No. 104-104, 110 Stat. 56 (1996) (one purpose of the Act is to “accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services).

³⁷ Application at 3.

³⁸ *Id.* at 6.

³⁹ *Id.* at 5.

⁴⁰ See *CAF Authorization Public Notice*, 35 FCC Rcd at 4869-75 (listing obligations for authorized CAF Phase II recipients).

⁴¹ We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 21-423 that the proposed transaction has closed with the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.